

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CHARLES H. SMITH and
BEVERLY B. SMITH,

Plaintiffs,

v.

CASE NO. 06-11335
HON. LAWRENCE P. ZATKOFF

SKIPPER MARINE HOLDINGS,
INC., a Delaware Corporation,
SKIPPER BUD'S, a division of
Skipper Marine Holdings, Inc. And
CARVER BOAT CORPORATION, LLC,
an affiliated company of Skipper Marine Holdings, Inc.,

Defendants.

ORDER DISMISSING PLAINTIFF'S STATE LAW CLAIMS

Plaintiffs filed their Complaint on February 27, 2006, in Macomb County Circuit Court. Defendants removed the case to this Court on March 30, 2006. Plaintiffs' Complaint contains the following four counts:

- Count I Breach of Express Warranty;
- Count II Breach of Implied Warranty;
- Count III Breach of Magnuson-Moss Warranty Act; and
- Count IV Violations of the Michigan Consumer Protection Act.

See Complaint.

The Court has subject matter jurisdiction over Count III, because it arises under federal law. *See* 28 U.S.C. § 1331. Counts I, II, and IV, however, are based upon state law. Although the Court has supplemental jurisdiction over state law claims pursuant to 28 U.S.C. § 1367(a), the Court may

decline to exercise supplemental jurisdiction if there are “compelling reasons for declining jurisdiction.” *See* 28 U.S.C. § 1367(c)(4). The Court declines to exercise supplemental jurisdiction over Plaintiffs’ state law claims in this matter. The Court finds that the contemporaneous presentation of Plaintiffs’ parallel state claim for relief will result in the undue confusion of the jury. *See* 28 U.S.C. § 1367(c)(4); *see also Padilla v. City of Saginaw*, 867 F. Supp. 1309, 1315 (E.D. Mich. 1994).

Accordingly, IT IS ORDERED that Plaintiffs’ state law claims of Breach of Express Warranty (Count I), Breach of Implied Warranty (Count II), and Violations of the Michigan Consumer Protection Act (Count IV) are hereby REMANDED to Macomb County Circuit Court. The Court retains jurisdiction over Plaintiffs’ federal claim (Count III).

IT IS SO ORDERED.

s/Lawrence P. Zatkoff

LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: April 10, 2006

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on April 10, 2006.

s/Marie E. Verlinde

Case Manager
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